

THE CESAR CHAVEZ PUBLIC CHARTER SCHOOLS FOR PUBLIC POLICY
SOLICITATION FOR PROPOSALS

The Cesar Chavez Public Charter Schools for Public Policy, in accordance with section 2204 (c) (1) (A) of the DC School Reform Act of 1995 (Public Law 104-134), hereby solicits proposals from prospective candidates to provide the following services:

- 1.) **Math Text Books** for our schools.
- 2.) **Facilities Renovation & Equipment** for our schools.

All necessary forms and a full RFP for each service may be obtained by calling 202-547-3975 ext. 10.

The Cesar Chavez Public Charter Schools will receive bids from July 27, 2007 to COB August 3, 2007. Send Proposals to:

Attn: Devin Murphy
709 12th Street, SE
Washington, D.C. 20003.

BOARD OF ELECTIONS AND ETHICS
CERTIFICATION OF ANC/SMD VACANCIES

The District of Columbia Board of Elections and Ethics hereby gives notice that there is one vacancy in Advisory Neighborhood Commission office, certified pursuant to D.C. Official Code 1-309.06(d)(2); 2001 Ed.

VACANT: 2F05

Petition Circulation Period: **Monday, July 30, 2007 thru Monday, August 20, 2007**

Petition Challenge Period: **Thursday, August 23, 2007 thru Wednesday, August 29, 2007**

Candidates seeking the Office of Advisory Neighborhood Commissioner, or their representatives, may pick up nominating petitions from 8:30am to 4:45pm, Monday through Friday at the following location:

D.C. Board of Elections and Ethics
441 - 4th Street, NW, Room 250N
Washington, DC 20001

For more information, the public may call **727-2525**.

DISTRICT DEPARTMENT OF THE ENVIRONMENT**NOTICE OF FILING OF AN APPLICATION
TO PERFORM VOLUNTARY CLEANUP**

Pursuant to § 601(b) of the Brownfield Revitalization Amendment Act of 2000, effective June 13, 2001 (D.C. Law 13-312; D.C. Official Code § 8-636.01(b) (Supp. 2005)(Act)), the Voluntary Cleanup Program in the District Department of the Environment (DDOE), Land Development and Remediation Branch (LDRB), is informing the public that it has received an application to participate in the Voluntary Cleanup Program (VCP). The application, case VCP2007-014, pertaining to certain real property located at 82 I Street, S.E, was submitted by Mr. Kevin Hurley, Director of Realty Services of CSX Realty Inc., 301 West Bay Street, Suite 800, Jacksonville, Florida 32202. The application identifies low levels of polychlorinated biphenyls, (PCBs), petroleum products, polynuclear aromatic hydrocarbons (PAH) and some metals in soil and groundwater. The applicant intends to conduct an investigation of the subject property prior to redevelopment.

Pursuant to § 601(b) of the Act, this notice will also be mailed to the Advisory Neighborhood Commission (ANC) for the area in which the property is located. The application is available for public review at the following location:

Voluntary Cleanup Program
District Department of the Environment (DDOE)
51 N Street, N.E., 3rd Floor, Room 3004
Washington, DC 20002

Interested parties may also request a copy of the application for a small charge to cover the cost of copying by contacting the Voluntary Cleanup Program at the above address or calling (202) 535-1337.

Written comments on the proposed approval of the application must be received by the VCP program at the address listed above within twenty one (21) days from the date of this publication. DDOE is required to consider all public comments it receives before acting on the application, the cleanup action plan, or a certificate of completion.

**DISTRICT OF COLUMBIA HOUSING AUTHORITY
BOARD OF COMMISSIONERS**

1133 NORTH CAPITOL STREET, NORTHEAST
WASHINGTON, D.C. 20002-7599
202-535-1500

NOTICE OF PUBLIC MEETINGS

THE REGULAR MEETINGS OF THE BOARD OF COMMISSIONERS OF THE DISTRICT OF COLUMBIA HOUSING AUTHORITY ARE HELD IN OPEN SESSION ON THE SECOND WEDNESDAY OF EACH MONTH. THE DATES AND TIMES OF THE MEETINGS FOR THE YEAR 2007 FOLLOWS.

January 10, 2007	CANCELLED	1:00 p.m.
February 14, 2007		1:00 p.m.
March 14, 2007		1:00 p.m.
April 11, 2007		1:00 p.m.
May 9, 2007		1:00 p.m.
June 13, 2007		1:00 p.m.
July 11, 2007		1:00 p.m.
August 8, 2007	CANCELLED	1:00 p.m.
September 12, 2007		1:00 p.m.
October 10, 2007		1:00 p.m.
November 14, 2007		1:00 p.m.
December 12, 2007		1:00 p.m.

**A copy of the draft agenda for each meeting is posted in the lobby at
1133 North Capitol Street, N.E.**

July 2007

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1333 H STREET, N.W., SECOND FLOOR, WEST TOWER
WASHINGTON, DC 20005

ORDER

July 13, 2007

FORMAL CASE NO. 1056, IN THE MATTER OF THE APPLICATION OF POTOMAC ELECTRIC POWER COMPANY FOR AUTHORIZATION TO ESTABLISH A DEMAND SIDE MANAGEMENT SURCHARGE AND AN ADVANCE METERING INFRASTRUCTURE SURCHARGE AND TO ESTABLISH A DSM COLLABORATIVE AND AN AMI ADVISORY GROUP, Order No. 14371

I. INTRODUCTION

1. By this Order, the Public Service Commission of the District of Columbia ("Commission") extends the deadline for filing comments and reply comments in response to the Potomac Electric Power Company's ("Pepco") application to establish, among other things, a demand side management surcharge and an advance metering surcharge in this matter. The Commission also extends the deadline for interested persons to intervene.

II. BACKGROUND

2. On April 4, 2007, the Potomac Electric Power Company ("Pepco" or "Company") filed an Application seeking authority to establish a comprehensive demand response, advanced metering and energy efficiency plan for Pepco's District of Columbia customers.¹ The Company states that this plan called "Blueprint for the Future" will help Pepco's District of Columbia electricity customers conserve energy, reduce peak electricity demand and lessen future energy costs.²

3. By Order issued April 23, 2007, the Commission invited interested persons to intervene in this proceeding and established deadlines for filing comments, reply comments, and

¹ *Formal Case No. 1056, In the Matter of the Application of Potomac Electric Power Company for Authorization to Establish a Demand Side Management Surcharge and an Advance Metering Infrastructure Surcharge and to Establish a DSM Collaborative and an AMI Advisory Group* ("F.C. 1056"), filed April 4, 2007 ("Pepco Application").

² *F.C. 1056, Pepco Application at 1.*

proposed issues. Comments and proposed issues were due July 3, 2007 and reply comments were due August 2, 2007.³

4. On July 2, 2007, the Office of the People's Counsel ("OPC") filed a motion to extend the time to submit initial comments and proposed issues regarding Pepco's Application.⁴ In its Motion, OPC requests that the Commission extend the time period for submitting initial comments and proposed issues until August 10, 2007 and permit reply comments to be filed on September 10, 2007.⁵ In support of its request, OPC states that the press of business and time constraints posed by other commitments such as OPC's involvement in four days of an evidentiary hearing before the Commission in Formal Case No. 1053 have prevented OPC from fully analyzing the Company's proposal by the deadline.⁶

5. OPC states that it has contacted counsel for Pepco, the Apartment and Office Building Association of Metropolitan Washington, the District of Columbia Water and Sewer Authority, the Washington Metropolitan Area Transit Authority, the City of Alexandria, the Association for the Advancement of Retired Persons, and the District of Columbia Government and that these parties support OPC's request.⁷ Also, OPC avers that RESA does not oppose OPC's request.⁸ Accordingly, OPC asserts that the additional time to allow for the review and analysis of Pepco's Application will not otherwise prejudice any of the stakeholders and serves the public interest.⁹

III. DISCUSSION

6. We find that OPC's request for an extension of time is reasonable and would neither prejudice any party nor unduly delay the proceeding. Accordingly, the Commission will extend the time period for submitting initial comments and proposed issues regarding Pepco's Application until August 10, 2007 and permit reply comments to be filed by September 10, 2007. We will also extend the deadline for interested persons to intervene to August 3, 2007.

³ *F.C. 1056*, Order No. 14264, rel. April 23, 2007. The Order was published in the D.C. Register on May 4, 2007. See 54 *D.C. Reg.* 4218-4220. Comments were due within 60 days of the Order's publication in the D.C. Register while reply comments were due within ninety (90) days of publication of the Order.

⁴ *F.C. 1056*, Motion of the Office of the People's Counsel for Extension of Time to Submit Initial Comments and Proposed Issues Regarding Potomac Electric Power Company's Application, filed July 2, 2007 ("OPC's Motion").

⁵ *F.C. 1056*, OPC's Motion at 3.

⁶ *Id.* at 2.

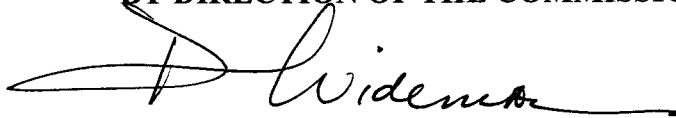
⁷ *Id.* On June 15, 2007, in Order No. 14334, the Commission granted the aforementioned entities party status in this matter.

⁸ *Id.* at 2. On July 10, 2007, in Order No. 14363, RESA was granted party status in this matter.

⁹ *Id.* at 2.

THEREFORE, IT IS ORDERED THAT:

7. OPC's Motion for Extension of Time to Submit Initial Comments and Proposed Issues Regarding Pepco's Application is hereby **GRANTED**;
8. The Comment period is extended until August 10, 2007;
9. The Reply comment period is extended until September 10, 2007; and
10. The time period for interested persons to intervene has been extended to August 3, 2007.

A TRUE COPY:**BY DIRECTION OF THE COMMISSION:**A handwritten signature in black ink, appearing to read "D. Wideman", with a long horizontal flourish extending to the right.**CHIEF CLERK**

**DOROTHY WIDEMAN
COMMISSION SECRETARY**

**STATE EDUCATION AGENCY
UNIVERSITY OF THE DISTRICT OF COLUMBIA**

NOTICE OF FUNDING AVAILABILITY

Adult and Family Literacy Services Grant

The District of Columbia State Education Agency (SEA) is soliciting grant applications from qualified applicants to provide educational opportunities to adults that will improve their literacy skills and enable them to function more effectively as citizens, parents, and workers. Services funded under this grant must be provided to District of Columbia residents age 16 and older. The services are intended to:

- Enable adults to acquire basic literacy and educational skills, which will equip them to better fulfill responsibilities as parents/family members, citizens/community members and workers;
- Provide these adults with sufficient basic education to enable them to benefit from job training and employment opportunities, and to enable them to more fully enjoy the benefits and responsibilities of citizenship; and
- Enable adults who so desire to continue their education to at least the level of completion of secondary school.

Private, non-profit organizations that operate in the District of Columbia are encouraged to apply. The SEA will fund at least 15 grants in the range of \$75,000 - \$100,000, with an average grant amount of \$80,000.

The Request for Applications (RFA) will be released July 27, 2007 and the deadline for submission is September 13, 2007 at 5:00 pm. The RFA can be downloaded from the Executive Office of The Mayor, Office of Partnerships and Grants Development website at <http://opgd.dc.gov>, under "District Grants Clearinghouse". The RFA may also be obtained at the University of the District of Columbia, State Education Agency, 4340 Connecticut Avenue, NW, Room 302, Washington, DC 20008. Questions about obtaining the RFA may be directed to Keith Watson by e-mail at kwatson@kairosmgt.com.

Applicants are encouraged but not required to submit a notification of intent to apply for this grant by August 22, 2006 to Keith Watson by e-mail at kwatson@kairosmgt.com or by fax at (202) 318-5638. Applicants are also encouraged to attend a pre-application conference, the time, date, and location of which are included in the RFA.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Appeal No. 17465 of Advisory Neighborhood Commission 3D, pursuant to 11 DCMR §§ 3100 and 3101, from the decision of an Administrative Law Judge (ALJ) to dismiss a DCRA/BLRA Notice of Violation for the construction of an unpermitted horse stable. Appellant alleges that the ALJ erred on October 20, 2005, by overturning a DCRA/BLRA notice of violation issued to Dorchester Associates. Appellant contends that the construction of the stable violates sections 204 and 208 of the Zoning Regulations. The subject property is located in the CB/UT/R-1-A District at premises 2762 Chain Bridge Road, N.W. (Square 1425, Lot 822).

Hearing Date: May 9, 2006

Decision Date: May 9, 2006

DECISION AND ORDER

ANC 3D ("Appellant") filed this appeal purporting to challenge a written order issued by an Administrative Law Judge dismissing Notice of Civil Infraction N100086 ("NOI") issued by the Department of Consumer and Regulatory Affairs ("DCRA") to Dorchester Associates and Morton Bender (hereinafter collectively referred to as "Property Owners"). The NOI charged the Property Owners with constructing a stable without a building permit in violation of the Zoning Act of 1938. As will be explained in the findings of fact that follow, the Appellant actually filed this appeal to compel the Property Owners to request a special exception for the alleged stable. For the reasons stated below, the Board dismisses the appeal because it lacks the subject matter jurisdiction over civil infraction appeals not involving violations of the Zoning Regulations or the Height Act or appeals of decisions not made by a District official. In addition, the Board has no authority to compel a property owner to file an application for a special exception.

PRELIMINARY MATTERS

Notice of Appeal and Notice of Public Hearing

The Office of Zoning scheduled a hearing on the appeal for May 9, 2006. In accordance with 11 DCMR § 3113.14, the Office of Zoning published a notice of the hearing in the

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D.C. Register, mailed notice of the hearing to the Appellant (who was also the affected ANC) and the property owner, and posted the calendar of cases to be heard by the Board in the Office of Zoning.

Parties

The Appellant is ANC 3D. The Appellee is DCRA. As an owner of the property, Dorchester Associates is automatically a party under 11 DCMR § 3199.

Motion to Dismiss

Dorchester Associates moved to dismiss the appeal, arguing that the appeal was untimely, that the Appellant lacked standing to bring the appeal, and that the arguments presented in the appeal (which argue primarily that Dorchester Associates should be required to file for a special exception) lack merit because these issues were not the subject of the decision that was appealed.

FINDINGS OF FACT

1. The property that is the subject of this appeal is located in the CB/UT/R-1-A zone district at premises 2762 Chain Bridge Road, N.W. (Square 1425, Lot 822) ("the Property").
2. Beginning in the fall of 2005, neighbors noticed a structure on the Property they believed to be a horse stable constructed without a building permit.
3. After a series of complaints made to the Zoning Administrator, the Property Owners filed for a building permit in early 2005, but were directed by the Zoning Administrator to seek a special exception from this Board.
4. On April 20, 2005, following the Property Owners' failure to follow the directive, DCRA served them with Notice of Infraction ("NOI") N100086. The NOI charged the Property Owners with constructing a stable without a building permit in violation of § 10 of the Zoning Act of 1938, codified at D.C. Official Code § 6-641.09 (2001) and sought a civil fine of \$500. No other violations of any other statute or any regulation were alleged.
5. The Property Owners denied the infraction and requested an evidentiary hearing before the Office of Administrative Hearings ("OAH").
6. The Appellant was not a party to the proceeding.

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7. At the evidentiary hearing on the NOI, held on September 29, 2005, DCRA was not prepared to prove its case because the inspector who issued the NOI failed to appear. The Administrative Law Judge dismissed the case, with prejudice.
8. OAH mailed the written dismissal order to the parties in the case on October 25, 2005. The order indicated that a "party" had 15 calendar days from the mailing date to appeal to the BZA.
9. On December 5, 2005, ANC 3D filed this appeal with the Office of Zoning.
10. In its "Response" to the Motion to Dismiss, the Appellant stated that it was "not appealing the ruling dismissing the notice of infraction." Response at 3. Instead, the appeal was filed in order "to bring [the Property Owners] before the BZA to seek a special exception for the construction of a stable on the property." Response at 4.
11. At the hearing on the Motion to Dismiss held on May 9, 2006, the Chair asked the Appellant to articulate the error that formed the basis of the Appeal. Appellant's representative responded:

Obviously I believe that [the Property Owner] erred in not doing filing [sic] for a special exception hearing However, I think we can set the record straight today by saying, "Okay, this is the Board saying, okay, we're going to hear this special exception request," and that's what we're asking you to do.

Transcript at 265.

CONCLUSIONS OF LAW

The Appellant alternatively claims error in the dismissal of an NOI charging the Property Owners with constructing a structure without a building permit in violation of section 10 of the Zoning Act of 1938, (D.C. Official Code 6-641.09, and also error in the failure of the property owner to seek a special exception that Appellant claims is needed.

The jurisdictional basis of the Board to hear and decide the first allegation of error derives from § 301 of the Department of Consumer and Regulatory Affairs Civil Infraction Act of 1985, (D.C. Law 6-42, § 301, 32 DCR 4450) ("Civil Infractions Act") which provides, in part:

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Except as provided in D.C. Official Code § 2-1831.16 (2001 ed.), the District of Columbia Board of Appeals and Review shall entertain and determine appeals timely filed by persons aggrieved by orders issued by hearing examiners pursuant to this chapter or by the Mayor, except that appeals involving infractions of the Act to regulate the height of buildings in the District of Columbia¹, approved March 1, 1899 (30 Stat. 923; D.C. Code sec. 25-101 et seq.) [“the Height Act”], or the District of Columbia Zoning Regulations shall be entertained and determined by the District of Columbia Board of Zoning Adjustment.¹

In this case the appeal arises out of a violation of Section 10 of the Zoning Act, not a violation of the Height Act or the zoning regulations. (See Finding of Fact No. 4). Accordingly, this Board lacks subject matter jurisdiction to hear this appeal.

As the Board has twice held, the above language makes it clear that the Civil Infractions Act does not confer jurisdiction on the Board to hear appeals unless the underlying NOI charged a violation of the Height Act or the Zoning Regulations. *Appeal of Peter Choharis*, BZA No. 03-0001, 51 DCR 8210 (August 20, 2004); *Appeal of William Robinson*, BZA No. 04-0001, 52 DCR 3677 (April 8, 2005). In fact the *Choharis* decision involves the exact violation charged here. Because the NOI charged only a violation of the Zoning Act, the Board lacks the subject matter jurisdiction to review the order that dismissed it.²

This leaves the portion of the appeal alleging that the Property Owners erred in not seeking a special exception, and that asks the Board to compel the Property Owners to request that relief. A similar error was alleged in *Appeal No. 17329 of Georgetown Residence Alliance*, 53 DCR 5932 (2006), in which the Board held:

To the extent that the Appellant was also appealing the construction and demolition activities of the property owner, as opposed to the decisions made by District official with respect to those activities, the Board also has no jurisdiction. The Zoning Act limits the Board’s appellate jurisdiction to

¹ The text as codified in the D.C. Official Code differs from the text of the organic act, and references Chapter 6 of D.C. Code Title 6 instead of the Height Act. However, when the language as codified differs from the language of the legislature, the language used by the legislature prevails. See *Burt et al. v. District of Columbia*, 525 A.2d 616, 619 (D.C. 1987).

² Because the Board does not have subject matter jurisdiction over this appeal, this order will not address the other bases for dismissal it articulated during its deliberations.

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actions taken by District officials in carrying out and enforcing the Zoning Regulations, not to actions taken by private citizens.

Id. at 5937.

Because no error on the part of any District Official is alleged this portion of the instant appeal must also be dismissed. As to the request that the Board compel the Property Owners to request a special exception, neither the Zoning Act nor the Zoning Regulations grant the BZA such an extraordinary power. In the absence of an application for a special exception filed by a property owner, the Board may not decide or grant such relief. 11 DCMR §§ 3313.3 and 3313.4.

For the reasons stated above, it is hereby **ORDERED**, that the appeal hereby **DISMISSED**.

VOTE: 5-0-0 (Geoffrey H. Griffis, Ruthanne G. Miller, Curtis Etherly, Jr., John A. Mann II and John G. Parsons in favor of dismissal).

Vote taken on May 9, 2006.

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurrent member has approved the issuance of this Decision and Order.

FINAL DATE OF ORDER: JUL 12 2007

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 17535, of Ann Goodman pursuant to 11 DCMR § 3104.1, for a special exception under § 223 of the Zoning Regulations, to allow a covered walkway addition not meeting the rear yard requirements (§ 404) in the R-3 District, at premises 3254 O Street, N.W. (Square 1230, Lot 125)

HEARING DATE: November 14, 2006

DECISION DATE: December 5, 2006

DECISION AND ORDER

Ann Goodman ("the owner" or "the applicant") of the subject premises, filed an application with the Board of Zoning Adjustment (Board) on June 28, 2006 for special exception relief under § 223 of the Zoning Regulations (11 DCMR). The owner proposes to construct a covered walkway addition which will connect her dwelling to the accessory garage located at the rear of the property and, which will result in noncompliance with the rear yard requirements under the Regulations. Prior to the public hearing on November 14, 2006, the owner amended her application to also include relief from the open court requirements of the Regulations. The Board deliberated at a public meeting on December 5, 2006, and decided that relief was required from the rear yard requirements, but not from the open court requirements. The Board then voted to grant the application for the addition.

PRELIMINARY MATTERS

Zoning Referral On or about June 26, 2006, the DC Department of Consumer and Regulatory Affairs (DCRA) referred the applicant to this Board to obtain zoning relief. DCRA noted that the proposed corridor between the main structure and the accessory garage required relief from the minimum rear yard setback under the Regulations (Exhibit 4).

Notice of Public Hearing Pursuant to 11 DCMR 3113.13, notice of the hearing was sent to the applicant, all owners of property within 200 feet of the subject site, the Advisory neighborhood Commission (ANC) 2E, and the District of Columbia Office of Planning (OP). The applicant posted placards at the property regarding the application and public hearing and submitted an affidavit to the Board to this effect (Exhibit 20).

ANC Report In its report dated November 6, 2006, ANC 3E indicated that, at a regularly scheduled monthly meeting with a quorum present, the ANC voted to oppose the special exception (Exhibit 26). The ANC expressed its concern that the proposed walkway connecting the structures would change the status of the property from a detached dwelling to a row house, and thereby adversely impact the Georgetown community as a result of an increase in allowable density.

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Requests for Party Status ANC 2E was automatically a party to this proceeding. The Board also received two requests for party status from nearby property owners Robert Laycock/Thomas Vogt (Exhibit 22), and Mary Carter (Exhibit 23). The Board granted both requests for party status, and these parties agreed to join together as one party (the Neighbors). At the public hearing, the Neighbors claimed that the applicant's true intent was to circumvent the zoning laws and add an apartment above the garage. The Neighbors also stated that the walkway would be visible from their properties and would destroy the historic quality of the Georgetown community (Exhibits 22 and 23).

Other Persons in Support/Opposition Sixteen neighboring property owners signed a Petition in opposition (Attachment to ANC Report, Exhibit 26), and three neighboring property owners testified in opposition, including one adjacent property owner who testified that the walkway would destroy his privacy and light and air. Barbara Zartman, who represented the Georgetown Citizens Association, also testified. She stated that the walkway would provide no protection from the elements; and, that it would therefore serve no apparent purpose.

Government Reports

OP Report OP prepared a written report recommending approval of the special exception (Exhibit 24). In its report, OP stated that the proposed walkway would convert the west side yard into a 5-foot wide open court, necessitating relief from the 6 foot minimum open court provision. OP also stated that the connecting walkway would convert the detached one family dwelling and detached garage into a consolidated single structure that OP would consider to be a row dwelling because the rear portion of the structure would have no side yards. Steve Mordfin, the OP representative who prepared the report, testified at the hearing that because the walkway would be set back significantly from each of the lot lines, it would be in harmony with the general purpose and intent of the Zoning Regulations, and would not adversely affect the use of neighboring property owners. OP further opined that while this configuration is not entirely within the character of a typical row dwelling development it will not impair the intent, purpose and integrity of the zone plan embodied in the Zoning Regulations and Map.

Closing of the Record

The Board closed the administrative record at the conclusion of the public hearing on November 14, 2006.

FINDINGS OF FACT

The Site and Surrounding Area

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1. The subject property is located at 3254 O Street, N.W., Lot 125 of Square 1230 in the R-3 zone district and within the Georgetown Historic District. The property is 5,400 square feet in area, and has a minimum lot width of 36 feet.
2. The lot is improved with a two-story single-family detached dwelling and a detached garage which is located in the rear yard. The dwelling was constructed in approximately 1860¹. The 756 square foot garage is accessible to a private alley. The garage is set back 6 feet from the alley and extends the full width of the lot at the rear of the property.
3. The surrounding area is primarily residential, including small apartment buildings and row dwellings. All surrounding properties are located within the R-3 zone district and the Georgetown Historic District.

The Proposal

5. The applicant proposes to construct a corridor connecting the dwelling and the detached garage (Exhibits 2, 7). As proposed, the corridor will be a 67 foot long porte-cochere² located down the center of the 36 foot wide property (Exhibit 3). The porte-cochere will be three feet wide and have columns that are approximately 7 feet in height. It will not have any exterior walls, but will be covered with a tin roof and have ivy arches around its perimeters (Exhibit 7, T. at 58, 60).
6. As proposed, the walkway will be set back 17.2 feet from the west lot line and 15.25 feet from the east lot line.
7. As proposed, the walkway will connect the dwelling with the garage and result in one building with a lot occupancy of 39.6% at the property, which is still within the matter of right limits for dwellings in the R-3 zone (Exhibits 3, 24, T. at 64). The footprint of the dwelling and garage will remain the same.

Application and Zoning Relief Sought

8. The owner filed an application for a special exception on June 28, 2006 (Exhibit 1). The Zoning Administrator referred the owner to this Board for a special exception under § 223 of the Regulations (Exhibit 4). Section 404 of the Zoning Regulations requires a minimum rear yard of 25 feet in the zone. Because the proposed walkway will eliminate the rear yard, the Zoning Administrator determined that relief was needed from the rear yard requirements (Exhibit 4).
10. OP reviewed the application and concluded that the owner also needed relief from the open court requirements. OP reasoned that construction of the walkway would convert the side yards into open courts, resulting in a western open court of 5 feet (Exhibit 24). Because section 406.1 of the Regulations requires a minimum open court

¹ OP states in its report that the house was constructed in 1900. (OP Report at 2) However, the Board credits the 1860 date provided by the applicant. (November 14, 2006 Transcript, hereafter "T." at 54).

² The applicant testified that the porte-cochere, hereafter referred to as a walkway, will "keep the rain and weather off." (T. at 41).

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width of 6 feet, OP suggested that the owner obtain open court relief as well as relief from the rear yard requirements. As a result, the owner amended her application to also include relief from the open court requirements of the Zoning Regulations (Exhibit 19).

The Impact of the Covered Walkway

11. The elevation plans (Exhibit 7), photographs (Exhibit 6), and plats (Exhibits 2 and 28) show the relationship of the walkway to adjacent buildings, and also depict views from the public rights-of-ways. The proposed walkway will not be visible from O Street, Potomac Street, or 33rd Street (Exhibit 24) (OP Report at 5).

12. The light and air to adjoining property owners will not be unduly affected by the walkway (OP Report at 4 & 5). Moreover, Ms. Carter confirmed during the hearing that her access to light and air will not be impacted by the proposed walkway (T. at 87).

13. The privacy of use and enjoyment of neighboring properties will not be unduly compromised, as much of the rear yard is screened and buffered from adjacent properties by fencing and plantings (OP Report at 5). The walkway will be well screened by trees at the property (T. p. 44) and will not be visible from any public way or from adjoining properties (T. p. 69, 74).

CONCLUSIONS OF LAW

The Required Relief

As a threshold matter, the Board concludes that no relief is required from the open court requirements. As will be explained below, the Board finds that relief is required only from the rear yard requirements. Relief will not be required from the open court requirements because an open court will not be created as a result of the proposed project.

OP has suggested that construction of the walkway will convert the western side yard to an open court. The Board disagrees. Under the Zoning Regulations, a "court" is defined as: "an unoccupied space, not a court niche, open to the sky, on the same lot with a building, which is bounded on two (2) or more sides by the exterior walls of the building or by two (2) or more exterior walls, lot lines, or yards." While the proposed walkway will have a tin roof supported by columns, it will not have any exterior walls. Thus, construction of the walkway will not result in creation of a court.

The Special Exception

The Board is authorized under § 8 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799, as amended; D.C. Official Code § 6-641.07(g)(2) (2001)), to grant special exceptions as provided in the Zoning Regulations. The applicant is seeking a special exception pursuant to 11 DCMR §§ 223 and 3104.1 to construct an addition to a one-family dwelling in an R-3 Zone District, where the addition will not comply with the rear yard requirements of § 404.

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The Board may grant a special exception where, in its judgment, two general tests are met, and, the special requirements for the particular exception are met.

The general tests. First, the requested special exception must "be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps." 11 DCMR § 3104.1. Second, it must "not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Map" 11 DCMR § 3104.1.

As to the first test, the proposed walkway will not change the residential use of the dwelling. The Board concurs with the Office of Planning that while the resulting configuration is unusual, it will not impair the intent, purpose and integrity of the zone plan embodied in the Zoning Regulations and Map.

Since the second test is nearly identical to the criteria for the requirements under § 223, it will be addressed in the following section:

Under Section 223.1 of the Zoning Regulations, the Board may permit an addition to a single family dwelling where it does not comply with applicable area requirements, subject to its not having a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:

223.2(a) The light and air available to neighboring properties shall not be unduly affected. Light and air to neighboring properties will not be unduly affected (Finding of Fact 12).

223.2(b). The privacy of use and enjoyment of neighboring properties shall not be unduly compromised. Nor will the privacy of use and enjoyment of neighboring properties be significantly affected by the proposed addition. The walkway will be screened and buffered by plantings and fences, and will be set back from the side lot lines at significant distances. (Findings of Fact 13).

223.2(c). The addition, together with the original building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale and pattern of houses along the subject street frontage. The proposed addition will not be visible from the street (Findings of Fact 11).

223.3 The lot occupancy of the dwelling or flat, together with the addition, shall not exceed fifty percent (50%) in the R-1 and R-2 Districts or seventy percent (70%) in the R-3, R-4, and R-5 Districts. The subject property is in the R-3 zone (Finding of Fact 1). After construction of the walkway, the lot occupancy of the building on the property will be 39.6 % (Finding of Fact 7). Therefore, this condition will be met.

BZA APPLICATION NO. 17535

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The Board is required under Section 13 of the Advisory Neighborhood Commission Act of 1975, effective October 10, 1975 (D.C. Law 1-21), as amended; D.C. Official Code § 1-9.10(d)(3)(A)), to give "great weight" to the issues and concerns raised in the affected ANC's recommendations.

The ANC does not have a concern, with the walkway itself, but rather with possible future ramifications that may arise from an increased allowable lot area stemming from connecting the detached dwelling to the detached garage. The ANC, like OP, believed that there would be a change in status from a detached dwelling to a row dwelling if this application were to be approved which would result in an increased permissible lot area from 40% to 60%. This Board does not reach that issue in this case because it is not germane to the special exception analysis that is before it. The only issue before the Board is whether the addition to a single family dwelling satisfies the criteria set forth in §§ 223 and 3104 of the regulations. The ANC's concerns regarding adverse impacts do not arise out of the application before us, but out of speculation of unknown impacts from potential future additions.³ Having concluded that this addition to a single family dwelling will not cause adverse impacts to neighboring property and otherwise meets the requirements of §§ 223 and 3104 of the regulations, the Board is obliged to grant the application.

In reviewing a special exception application, the Board is also required under D.C. Official Code § 6-623.04(2001) to give "great weight" to OP recommendations. The Board concurs with OP that special exception relief is warranted and has addressed OP's issues and concerns as noted throughout this decision.

For the reasons stated above, the Board concludes that the applicant has satisfied the burden of proof with respect to the application for a special exception under § 223 to allow the construction of a walkway that would result in non-compliance with the rear yard requirements of the R-3 zone.

Therefore, for the reasons stated above, the application for a special exception is granted.

VOTE: 4-0-1 (Geoffrey H. Griffis, Ruthanne G. Miller, John A. Mann, II, and Anthony J. Hood,

all in favor of the motion to grant the application; Curtis L. Etherly, Jr. not participating on the case.)

Vote taken on December 5, 2006

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring member has approved the issuance of this Decision and Order.

FINAL DATE OF ORDER: July 2, 2007

³ Applicant noted at the hearing that she had no intent to pursue other construction.

BZA APPLICATION NO. 17535

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UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 17618 of Sylvia Kotz Realty Revocable Trust, pursuant to 11 DCMR § 3104.1, for a special exception to permit a surface parking lot under section 213, in the DC/R-5-B District at premises 1629 Corcoran Street, N.W. (Square 179, Lot 71).

HEARING DATE: June 12, 2007

DECISION DATE: July 3, 2007

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 2B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2B, which is automatically a party to this application. ANC 2B submitted a report in support of the application. The Office of Planning (OP) also submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception under section 213. No parties appeared at the public hearing in opposition to this application. Accordingly a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 213, that the requested relief can be granted, being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and

BZA APPLICATION NO. 17618**PAGE NO. 2**

conclusions of law. It is therefore **ORDERED** that this application be **GRANTED SUBJECT** to the following **CONDITIONS**:

1. Approval shall be for **FIVE (5) YEARS** from the effective date of this order.
2. The parking lot shall be improved as shown on the approved drawings in this Order. All parking spaces shall meet applicable standards with respect to size and location as set forth in §§2115 and 2116 of the Zoning Regulations.
3. Consistent with §2303.1 of the Zoning Regulations, the parking lot shall be designed and striped so that no vehicle or any part of a vehicle projects over any lot line or building line.
4. Approximately a minimum of 20.8 percent of the lot shall be landscaped as shown on the revised site plan approved in this Order (Exhibit 27 - Special Exception Plat No. 1). The landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance.
5. McDonald's franchise operator shall maintain a landscape maintenance agreement for the initial installation, planting of landscape improvements and the semi-annual landscape maintenance as shown on the revised site plan approved in this Order.
6. McDonald's franchise operator shall also provide daily, weekly, and/or as needed regular maintenance and upkeep of landscaping, including watering, weeding and removal of debris from the landscape area.
7. McDonald's franchise operator shall promptly contact the landscaping company with whom it has a landscaping agreement in the event any plantings appear distressed or dying and to have the company treat, repair, medicate and/or remove and re-plant.
8. The property shall be kept free of refuse and debris. The trash enclosure on the property shall remain locked and securely covered when not in active use. The trash enclosure shall be kept in a neat and tidy condition.

VOTE: **4-0-1** (John A. Mann II, Ruthanne G. Miller and Curtis L. Etherly, Jr. to approve; Anthony J. Hood to approve by absentee ballot; Marc D. Loud not present, not voting)

BZA APPLICATION NO. 17618

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BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring member approved the issuance of this order.

FINAL DATE OF ORDER: JUL 13 2007

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE §§ 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION

BZA APPLICATION NO. 17618**PAGE NO. 4**

WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

TWR

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 17635 of Mara Liasson Cuneo, pursuant to 11 DCMR § 3103.2, for a variance from the court width requirements under section 776, and a variance from the nonconforming structure provisions under subsection 2001.3, to allow a third story addition to an existing law office, in the CAP/CHC/C-2-A District at premises 507 C Street, N.E. (Square 838, Lot 804).

HEARING DATE: July 10, 2007

DECISION DATE: July 10, 2007 (Bench Decision)

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 6C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6C, which is automatically a party to this application. ANC 6C submitted a letter in support of the application. The Office of Planning (OP) submitted a report in support of the application. The Capitol Hill Restoration Society submitted a letter in support of the application.

As directed by 11 DCMR § 3119.2, the Board required the applicant to satisfy the burden of proving the elements that are necessary to establish the case for a variance pursuant to 11 DCMR §§ 3103.2. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the Office of Planning and ANC reports filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2, 776 and 2001.3, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

BZA APPLICATION NO. 17635

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Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application (pursuant to the architectural plans - Exhibit 10 in the record) be **GRANTED**.

VOTE: **5-0-0** (Ruthanne G. Miller, Curtis L. Etherly, Jr., Marc D. Loud, John A. Mann II, and Gregory N. Jeffries to Approve).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring member approved the issuance of this order.

FINAL DATE OF ORDER: July 11, 2007

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL

BZA APPLICATION NO. 17635

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AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 17636 of National Capital Revitalization Corporation on behalf of Redevelopment Land Agency Revitalization Corporation, pursuant to 11 DCMR §§ 3103.2 and 3104.1, for variances from the parking requirements under subsections 2101.1 and 2115.4, a variance from the loading requirements under subsection 2201.1, and a special exception from the Georgia Avenue Commercial Overlay provisions under subsection 1329.2, to allow the construction of a 115 unit residential building having ground floor retail in the GA(Georgia Avenue Commercial Overlay)/C-3-A District at premises 3910-3912 Georgia Avenue, N.W. (Square 2906, Lots 848 and 849).

Note: The applicant amended the application eliminating originally requested variances from the FAR and lot occupancy requirements.

SUMMARY ORDER

HEARING DATE: July 10, 2007
DECISION DATE: July 10, 2007 (Bench Decision)

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 4C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 4C, which is automatically a party to this application. ANC 4C submitted a letter in support of the application. The Office of Planning (OP) submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception under section 1329.2, and variances pursuant to § 3103.2 from the requirements of sections 2101.1, 2115.4 and 2201.1. No parties appeared at the public hearing in opposition to this application. Accordingly a decision by the Board to grant this application would not be adverse to any party.

BZA APPLICATION NO. 17636

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Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 1329.2, that the requested relief can be granted, being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Based upon the record before the Board, the Board further concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2, 2101.1, 2115.4 and 2201.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application (pursuant to Exhibit 24 – Architectural Plans) be **GRANTED**.

VOTE: 4-0-1 (Curtis L. Etherly, Jr., Marc D. Loud, Ruthanne G. Miller and John A. Mann II to Approve. The Zoning Commission member not voting, not having participated in the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
Each concurring member approved the issuance of this order.

FINAL DATE OF ORDER: JUL 12 2007

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

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PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 17641 of Sally Aman and Gregg Porter, pursuant to 11 DCMR § 3104.1, for a special exception to allow a three story addition to an existing single-family row dwelling under section 223, not meeting the lot occupancy (section 403), court requirements (section 406), and nonconforming structure provisions (subsection 2001.3) in the R-4 District at premises 121 6th Street, N.E. (Square 867, Lot 817).

HEARING DATE: July 10, 2007
DECISION DATE: July 10, 2007 (Bench Decision)

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 6C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6C, which is automatically a party to this application. ANC 6C submitted a letter in support of the application. The Office of Planning (OP) submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception under section 223. No parties appeared at the public hearing in opposition to this application. Accordingly a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application (pursuant to Exhibit No. 24 – Plans) be **GRANTED**.

VOTE: **5-0-0** (Ruthanne G. Miller, Marc D. Loud, Curtis L. Etherly, Jr.,
 John A. Mann II, and Gregory N. Jeffries to approve.

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring member approved the issuance of this order.

FINAL DATE OF ORDER: July 11, 2007

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

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D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN

ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FILING**

Z.C. Case No. 07-21

(Consolidated PUD – Square 50, Lots 82, 84, 813, 814, and 816)

July 18, 2007

THIS CASE IS OF INTEREST TO ANC 2A

On July 13, 2007, the Office of Zoning received an application from PerStar M Street Partners, LLC and 2213 M Street Limited Partnership (collectively, the “applicant”) for approval of a consolidated PUD for the above-referenced property.

The property that is the subject of this application consists of Square 50, Lots 82, 84, 813, 814, and 816 in Northwest Washington, D.C. (Ward 2) and is on a site bounded by M, 22nd, and 23rd Streets, N.W. The property is currently zoned CR.

The applicant proposes construction of a hotel. The proposed building will contain approximately 124,196 square feet, with a density of 8.0 FAR and a height of 110 feet. The project will include approximately 182 hotel rooms, 3,000 square feet of restaurant space, and 70 off-street parking spaces. The building will be LEED-certified and is part of the Starwood “1” hotel brand, which presents itself as the first luxury, eco-friendly global hotel brand.

For additional information, please contact Sharon S. Schellin, Secretary to the Zoning Commission at (202) 727-6311.

**OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES
PUBLICATIONS PRICE LIST**

DISTRICT OF COLUMBIA MUNICIPAL REGULATIONS (DCMR)

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